



**DEPARTMENT OF CORRECTIONS
YOUTH COMMUNITY CORRECTIONS BUREAU
POLICY**

Policy No.: YCC 1.3.52	Subject: YOUTH ABUSE/MISTREATMENT
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Section 3: Personnel	Revision Date: 01-09-06, 11-06-06, 11-23-07, 10-10-08, 01-06-09, 08-17-09
Applicable ACA Standards: 3-JCRF-3D-04, 3-JCRF-3D-05	
Signature: /s/ Karen Duncan	Effective Date: 09-15-04
Signature: /s/ Steve Gibson	

I. POLICY:

The Youth Community Corrections (YCC) Bureau prohibits youth abuse and mistreatment. The Bureau has a zero tolerance policy regarding abuse, mistreatment, and sexual misconduct with a youth. To ensure the safety of the youth under parole supervision, all suspected incidents of child abuse or neglect shall be reported immediately to the statutorily designated authority. If law permits, the YCC Bureau Chief shall initiate a thorough investigation and administer appropriate disciplinary actions that may include suspension, dismissal and/or criminal prosecution. This policy will be reviewed annually and updated as needed.

II. APPLICABILITY:

All YCC Facilities and Programs

III. DEFINITIONS:

Abuse - actual physical or psychological harm to a child; substantial risk of physical or psychological harm to a child; or abandonment. The term includes, but is not limited to: (a) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or (b) exposing a child to the criminal distribution of dangerous drugs, as prohibited by [45-9-101](#), the criminal production or manufacture of dangerous drugs, as prohibited by [45-9-110](#), or the operation of an unlawful clandestine laboratory, as prohibited by [45-9-132](#).

Harassment - to annoy continually; harry, plague, pester, tease, tantalize because of a person's race, color, national origin, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs. Per [ARM 2.21.4013](#), harassment may also include: (a) coercion of employees, clients, or customers in the participation or non-participation in religious activities; or (b) ethnic slurs, repeated jokes, innuendoes, or other verbal or physical conduct because of a person's nationality, race, color, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs if these actions create an intimidating, hostile or offensive working environment.

Mistreatment – pursuant to [45-5-204, MCA](#), means a person commits the criminal offense of mistreating prisoners if, being responsible for the care or custody of a prisoner, the person

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purposely or knowingly: 1) assaults or otherwise injures a prisoner; 2) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner with the purpose to obtain a confession from the prisoner or for any other purpose; or, 3) violates any civil right of a prisoner. In YCC policy and procedures prisoner equates to youth. While being responsible for the care or custody of a youth, the person purposely or knowingly: (a) assaults or otherwise injures a youth; (b) intimidates, threatens, endangers, or withholds reasonable necessities from the youth with the purpose to obtain a confession from the youth or for any other purpose; or (c) violates any civil right of a youth.

Neglect – parent or guardian fails to exercise a minimum degree of care in supplying the child with adequate food, clothing, shelter, or education or medical care such that youth less than 18 years of age has impaired physical, mental or emotional condition or is in danger of becoming impaired. Neglect also occurs when the parent or guardian fails to provide the child with proper supervision or guardianship by allowing the child to be harmed, or to be at risk of harm including when the guardian misuses drugs or alcohol him/herself. Neglect is covered in [41-3-102, MCA](#).

Physical Abuse - an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

Sexual Misconduct - incidents of both staff sexual misconduct and youth on youth sexual abuse. The Department defines sexual misconduct, which encompasses both staff sexual misconduct and youth on youth sexual abuse, as follows:

1. **Non-consensual Sexual Act**: An incident in which one or more of the following acts occurs without the youth's consent, or the youth is unable to consent or refuse:
 - a. contact between the penis and the vagina or the penis and the anus involving penetration, however slight. It does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit;
 - b. contact between the mouth and the penis, vagina, or anus; and
 - c. penetration of the vagina or anus of another person by hand, finger, or other object.
2. **Abusive Sexual Contact**: Sexual contact without the youth's consent, or in which the youth is unable to consent or refuse. This includes one or more of the following behaviors:
 - a. intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim; and sexual contact does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.

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3. Staff Sexual Misconduct: Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, official visitor, or other agency representative; sexual relationships of a romantic nature between staff and youth are included in this definition. Consensual or nonconsensual sexual acts are defined as follows:
 - a. intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire;
 - b. completed, attempted, threatened, or requested sexual acts; and
 - c. occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.
4. Staff Sexual Harassment: Repeated verbal statements or comments of a sexual nature to a youth by an employee, volunteer, contractor, official visitor, or other agency representative. Behaviors may include:
 - a. demeaning references to gender or derogatory comments about body or clothing; and
 - b. repeated profane or obscene language or gestures.

Youth - an individual aged 10 through 17 who has been court-ordered to the Department of Corrections for placement into a secure care facility.

IV. PROCEDURES:

A. Child Abuse Notification:

All staff members who know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a youth is abused or neglected, including harassment, mistreatment, physical abuse, or sexual misconduct shall report the matter promptly to the YCC Bureau Chief or designee. The YCC Bureau Chief or designee shall promptly notify the Department of Public Health and Human Services, its local affiliate, and the local county attorney. Any person who has reasonable cause to suspect "child abuse or neglect" shall take appropriate action as outlined by State statute.

B. Reports, Observations or Incidents:

All reports, observations or incidents of "child abuse or neglect" shall immediately be referred to the YCC Bureau Chief or designee. The YCC Bureau Chief or designee will notify the Department of Public Health and Human Services, Child Protective Office and the County Attorney in the pertinent region. Following consultation with the Department of Public Health and Human Services and the appropriate County Attorney's Office, a decision will be made as to the method and course of investigation, in accordance with State law.

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Reporting of abuse or neglect cases is mandatory on the part of Department of Corrections' employees. Report to the YCC Bureau Chief the dates, names, places and factual information as possible.

Designated individual must report suspected child abuse or neglect to 1-866-820-5437 and document details of the report.

C. Medical Assessment:

Immediate medical assessment and treatment by medical provider will be facilitated for any youth reported to have been physically abused.

D. Reporting to Administrator and Director:

1. All alleged instances of abuse or mistreatment must be submitted in writing to the Division Administrator's Office for review and forwarded to the Director and shall include:
 - a. a description of the alleged abuse or mistreatment;
 - b. a summary of the findings and conclusions of the investigation; and
 - c. disciplinary action proposed/taken, if any.
2. If an investigation proves that an employee had knowledge of another employee abusing, mistreating, sexually assaulting, or engaging in sexual intercourse with a youth under supervision and did not report these actions, the employee will be subject to disciplinary action up to and including termination.
3. Sexual misconduct will additionally be reported to the Division's PREA Liaison.

E. Disciplinary Action

1. If investigation and due process procedures determine that an employee has committed offender abuse or mistreatment, that employee shall be subject to discipline as outlined in [MOM III, Policy 3-0130, Discipline](#)
2. Employees who are terminated for abuse or mistreatment shall not be eligible for re-employment into any position within the Department of Corrections.
3. A person convicted of the offense of mistreating youth shall be removed from office or employment and may be subject to the sanctions per [45-5-204, MCA](#).

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F. Guidelines

All YCC Bureau staff will make all reasonable efforts to ensure that clients will:

1. Be free from physical abuse or attack, humiliation, and psychological abuse.
2. Live in an environment designed to maximize individual security, privacy, and dignity.
3. Not be subjected to verbal harassment, name-calling, corporal or unusual punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping.

Applicable Laws and ACA standards prohibit as sanctions: corporal punishment or any other punishment designed to cause physical pain, contempt, or ridicule, including wearing of special clothing or insignia; restriction of diet; alteration of regular sleeping patterns; imposition of arduous physical labor; imposition of a rule of silence.

Physical contact with youth is prohibited except when necessary (e.g., use of force, medical exams, appropriate searches conducted according to policy guidelines). Inappropriate contact includes verbal or physical horseplay. In keeping with this policy, it is a requirement that staff respect each individual's personal space. Violations of this policy may result in termination of employment with the Department.

V. CLOSING:

Questions concerning this procedure shall be addressed to the Youth Community Corrections Bureau Chief.

VI. REFERENCES:

<u>41-3-102, MCA</u>	<u>Child Abuse and Neglect Definitions</u>
<u>41-3-201, MCA</u>	<u>Reporting Child Abuse and Neglect</u>
<u>45-5-201, MCA</u>	<u>Assault</u>
<u>45-5-204, MCA</u>	<u>Mistreating Prisoners</u>
<u>45-5-501, MCA</u>	<u>Sexual Crimes Definitions</u>
<u>45-5-502, MCA</u>	<u>Sexual assault</u>
<u>45-5-503, MCA</u>	<u>Sexual Intercourse without Consent</u>
<u>51-1-203, MCA</u>	<u>Powers and Duties of Department of Corrections</u>
<u>MOM 3-0130,</u>	<u>Discipline</u>

VII. ATTACHMENTS:

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None